

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 21130 of 2007(M)

CC.1049/2006 of J.M.F.C.-I, KOLLAM
.....

PETITIONER:

G.BALABHADRAN, AGED 64 YEARS,
S/O.LATE GOVINDAN,
KALEEKKAL VEEDU, PEROOR,
T.K.M.C.P.O., KARICODE.
KOLLAM - 5.

BY ADV. SRI.H.HARIKUMAR (KOLLAM)

RESPONDENTS:

SURESH KUMAR.K.K.AGED 40 YEARS,
LPSA (TEACHER)
SREE CHITRAVILASOM LPS
(KNNM - VHSS)
PAVITHRESWARAM P.O.,
PUTHOOR, KOTTARAKKARA
NOW RESIDING AT KALEEKAZHIKOM
CHERUPOIKA.P.O.
VUTHOOR, KOTTARAKKARA,
ACCUSED IN CC NO.1049/2006
BEFORE THE J.F.C.M COURT, KOLLAM

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R.BASANT, J.

W.P.C.No.21130 of 2007

Dated this the 10th day of July 2007

J U D G M E N T

The petitioner is the complainant in a prosecution under Section 138 of the Negotiable Instruments Act. He has a sad tale of woes to narrate. According to him, he is suffering from heart ailments. He has retired from service. He is hard pressed of money. The respondent is a friend of his, who has defrauded him by not making the payment due to him. He is badly and urgently in need of money. The short prayer of the petitioner is that the case against the respondent pending before the learned Magistrate may be disposed of expeditiously.

2. Has the petitioner applied to the learned Magistrate? Evidently he has not. Why has the petitioner rushed to this court without and before making such a prayer before the learned Magistrate? No satisfactory explanations are forthcoming except that the petitioner faces a very unfortunate plight. It is, in these circumstances, that the petitioner has come before this court for an out of turn early disposal of the case initiated by him, submits counsel.

3. I have sympathy for the petitioner. His complaint numbered in 2006 remains without disposal even now though the prosecution is for the simple offence punishable under Section 138 of the Negotiable Instruments Act. But it is certainly for the petitioner to approach the learned Magistrate and claim an early disposal of his case. I have no reason to assume that the learned Magistrate would not sympathetically consider the plight of the petitioner. But the petitioner must certainly follow the discipline and make an application before the learned Magistrate. Without and before doing that, there is no justification in his rushing to this court with such an application.

4. In the result, this petition is dismissed. But I may hasten to observe that it shall be open to the petitioner to make an application for expeditious disposal of the case before the learned Magistrate. Needless to say, the learned Magistrate must consider the same appropriately and pass expeditious orders on merits.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007